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Federal Communications Commission
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October 7, 1996

BY HAND

William F. Caton, Acting Secretary
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Washington, D.C. 20554

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SPECIAL COUNSEL
JEROLD L. JACOBS

Re: MM Docket No. 94-155
FM Table of Allotments
Big Pine Key, Key Colony Beach,
Naples, and Tice, Florida

DOCKET FILE COPY ORIGINAL

Dear Mr. Caton:

Enclosed herewith for filing, on behalf of Palm Beach Radio Broadcasting, Inc. and Gulf Communications Partnership, are an original and four (4) copies of their "MOTION TO DISMISS OR STRIKE STERLING COMMUNICATIONS CORP.'S DEFECTIVE COUNTERPROPOSAL/ APPLICATION" in the above-referenced proceeding.

Please direct all inquiries and communications concerning this matter to the undersigned.

Very truly yours,


Jerold L. Jacobs

Enc.

cc: As on Certificate of Service (all w/enc.)

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

OCT - 7 1996

Federal Communications Commission
Office of Secretary

In the Matter of)
)
Amendment of Section 73.202(b),) MM Docket No. 94-155
Table of Allotments,)
FM Broadcast Stations)
(Big Pine Key, Key Colony Beach,) RM-8486
Naples, Tice, Indiantown, Fort Myers) RM-8802
Villas, Clewiston, and Jupiter,¹ Florida) RM-8803
)
and)
)
In re Application of)
)
STERLING COMMUNICATIONS CORP.) File No. BPH-960613IC
Station WSGF(FM), Naples, Florida)
)
For Construction Permit To Modify)
Licensed Facilities (One-Step Upgrade))

To: Chief, Allocations Branch²

MOTION TO DISMISS OR STRIKE
STERLING COMMUNICATIONS CORP.'S
DEFECTIVE COUNTERPROPOSAL/APPLICATION

PALM BEACH RADIO BROADCASTING, INC. ("Palm Beach"), licensee of Station WPBZ(FM), Indiantown, Florida, and **GULF COMMUNICATIONS PARTNERSHIP** ("Gulf"), permittee of Station WAAD(FM), Tice, Florida (together, "the Parties"), by their attorneys, pursuant to §1.420(d) of the Commission's Rules, hereby move that the untimely counterproposal/application filed in this proceeding on June 10, 1996 by Sterling Communica-

¹ The communities of Indiantown, Fort Myers Villas, Clewiston, and Jupiter, Florida have been added to the caption.

² Because the subject counterproposal has also been filed as an FCC Form 301 one-step upgrade application, this Motion is being separately and simultaneously addressed to the Chief, Audio Services Division, Mass Media Bureau, for coordinated action with the Chief, Allocations Branch, pursuant to §1.44(c) of the Commission's Rules.

tions Corp. ("WSGL"), licensee of Station WSGL(FM), Naples, Florida, be dismissed or stricken as procedurally and technically defective and be given no consideration as either a counterproposal or a one-step upgrade application. In support whereof, the Parties show the following:

I. Background

1. Following up the Parties' October 2, 1996 motion to dismiss an untimely counterproposal filed by Spanish Broadcasting System of Florida, Inc., the subject Motion continues their effort to simplify this complex proceeding and reach an expeditious conclusion consistent with administrative due process and the public interest. Motions to dismiss or strike defective pleadings, such as WSGL's counterproposal/application, are routinely considered on the merits by the Commission and do not require special permission under §1.415(d) of the Rules to be filed. See, e.g., FM Table of Allotments (Rocky Mount, Bassett and Stanleytown VA), 10 FCC Rcd 9285 n.4 (Mass Media Bur. 1995) (motion to strike denied on the merits).

2. The subject rulemaking proceeding was initiated by Notice of Proposed Rule Making and Order to Show Cause ("NPRM"), 10 FCC Rcd 24 (Mass Media Bur. 1994). The NPRM (*id.* at 26 ¶17 and Appendix ¶3) specifically included well established procedural ground rules for FM channel rulemaking proceedings: (a) the deadline for comments and counterproposals was February 17, 1995; (b) counterproposals "will be considered if advanced in initial comments....They will not be considered if advanced in reply comments"; and (c) "The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved".

3. On the February 17, 1995 comment/counterproposal deadline, Palm Beach's predecessor (Amaturo Group, Ltd.) and three other Florida broadcast entities -- WSUV, Inc.,

licensee of Station WJST(FM) (formerly WROC), Fort Myers Villas, Florida, GGG Broadcasting, Inc., licensee of Station WJBW(FM), Jupiter, Florida, and Glades Media Company, licensee of Station WAFC-FM, Clewiston, Florida -- teamed up as "Joint Petitioners" to file a two-alternative counterproposal (RM-8803), and Gulf filed its own counterproposal (RM-8802) to its earlier petition for rulemaking. Most importantly, WSGL did not file any pleading on or before the February 17, 1995 deadline -- or for the next 16 months.

4. A Public Notice (Report No. 2134, "Petitions for Rulemaking Filed")("Public Notice"), released May 24, 1996, noted (at page 2) that on May 15, 1996, the Parties filed an "amendment and joint resolution to [their] counterproposals," stated (id.) that the Commission was soliciting comment only on the "amendment and joint resolution," and set June 10, 1996 as the deadline for "reply comments" (i.e., 15 days after the date of the Public Notice). On June 10, 1996, in accordance with the Public Notice, the Parties filed "Joint Counterproposal Reply Comments". However, WSGL filed "Comments" in opposition to the "amendment and joint resolution" in the form of a draft FCC Form 301 application for a one-step upgrade of Station WSGL's facilities from Channel 276C3 to Channel 276C2.³ Since this upgrade is mutually exclusive with two allotment upgrade proposals in the Public Notice (Channel 276C1, Indiantown, Florida, and Channel 275C2, Fort Myers Villas, Florida), see Exhibit A, infra, at 1, it is clearly a "counterproposal". See FM Channel and Class Modifications, 7 FCC Rcd 4943, 4943 ¶2 (1992) (counterproposals are suggestions for alternate, mutually exclusive uses of the spectrum). As the Parties will now demonstrate, WSGL's counterproposal/application is

³ The application was actually filed three days later (June 13, 1996) and given the file number BPH-960613IC when it was accepted for filing on July 2, 1996. See Report No. 23772, released July 2, 1996, p. 13.

fatally defective procedurally and also contains several technical errors which provide an additional independent basis for dismissal.

II. WSGL's Counterproposal/Application is Untimely, Technically Deficient, and Fatally Flawed

5. WSGL's Counterproposal (at 2) explicitly objects to changing WSGL's frequency from Channel 276C3 to Channel 284C3 because that change allegedly "would prevent any further upgrade of WSGL's facilities". It implicitly urges that grant of WSGL's proposed upgrade to Channel 276C2 has greater public interest importance than the upgrade of five other stations that is proposed in the "amendment and joint resolution". WSGL is factually and legally wrong on both counts. However, before the Parties address these points, there are several fatal procedural and technical defects in the counterproposal/application which warrant dismissing WSGL's proposal without even reaching the merits.

6. First, it is well established that untimely counterproposals will not be accepted. See, e.g., FM Table of Allotments (Chico CA), 6 FCC Rcd 4292, 4294 n.1 (Mass Media Bur. 1991)(late-filed counterproposals are prohibited by §1.420(d) of the Rules and NPRM's Appendix). It is clear that WSGL's one-step upgrade application, filed as "Comments" on June 10, 1996, is a "counterproposal".⁴ See Paragraph 4, supra. However, the NPRM established February 15, 1995 as the absolute deadline for counterproposals. See Paragraph 4, supra. It

⁴ Although the Commission has held that "it is appropriate to suggest in reply comments alternate channels for communities at issue in a proceeding," see FM Table of Allotments (Corpus Christi and Three Rivers TX), 11 FCC Rcd 517 ¶5 (Mass Media Bur. 1996), it is also well established that a reply comment that proposes allotting a higher class channel than what has already been proposed in a proceeding will be rejected as an untimely counterproposal. See FM Table of Allotments (Clinton NC et al), 6 FCC Rcd 4377, 4379 ¶10 (Mass Media Bur. 1991). Thus, WSGL cannot successfully maintain that substituting Channel 276C2 for Channel 276C3 is not a counterproposal.

is therefore obvious that WSGL's filing is woefully late, and the fact that WSGL may have had its application "in preparation for some time" (Counterproposal at 2) is irrelevant. To the best of the Parties' knowledge, the Commission has never waived its filing deadlines for counterproposals, and WSGL has cited no cases to the contrary. Therefore, WSGL's one-step upgrade application should be dismissed as an untimely counterproposal and be given no consideration in MM Docket No. 94-155. Moreover, in Paragraph 7, infra, the Parties show that WSGL's counterproposal/application contains serious technical defects. Whether or not those defects normally could be cured by amendment in the application process, it is clear that the defects are fatal to WSGL's Channel 276C2 upgrade proposal when it is treated as a counterproposal. See, e.g., FM Table of Allotments (Fort Bragg CA), 6 FCC Rcd 5817, 5817 n.2 (Mass Media Bur. 1991) (counterproposals must be technically correct and substantially complete when filed).

7. Second, WSGL's counterproposal/application is also fatally defective when it is treated strictly as a one-step upgrade application filed outside of the MM Docket No. 94-155 rulemaking proceeding. When the Commission established the one-step upgrade filing requirements in FM Channel and Class Modifications, 8 FCC Rcd 4735 (1993), it specifically stated (8 FCC Rcd at 4737 ¶13 and n.19) that "all applicants using the one-step process must also demonstrate that a suitable site exists which would comply with allotment standards with respect to minimum distance separation and city-grade coverage" and that "examples of unsuitable allotment reference sites include those which are offshore". Attached hereto as Exhibit A is an Engineering Statement by Clarence M. Beverage of Communications Technologies, Inc. ("Beverage Statement"). Mr. Beverage has studied WSGL's application and concludes (at 2) that there is no showing in the application that a suitable site exists which would comply with allotments standards. Indeed, the nearest coordinates that would comply with §73.207 minimum

distance separations are located some 5 kilometers offshore in the Atlantic Ocean (id.). Mr. Beverage also notes three other technical defects that warrant dismissal of WSGL's application: no allotment site map; no city coverage map; and no statement that WSGL's proposed allotment site is suitable for tower construction. Id. Under these circumstances, the Parties urge that the Chief, Audio Services Division should declare that WSGL's application is patently defective, was inadvertently accepted for filing (see footnote 3, supra), and should be dismissed.

8. Finally, if the Commission does not dismiss WSGL's application outright, the minimum that the Commission's established "conflicts" policy requires for situations like the instant case in which a one-step application is filed after the close of the period for filing counterproposals is that WSGL's application must be held in abeyance until the close of the MM Docket No. 94-155 rulemaking proceeding. See Examples of One-Step Application Process, 73 RR 2d 1474, 1475 (1993) (Example 4); FM Channel and Class Modifications, 8 FCC Rcd at 4739-40 ¶¶ 17-18 and n.35.

9. Turning to WSGL's claim that changing its frequency from Channel 276C3 to Channel 284C3 "would prevent any further upgrade of WSGL's facilities," the Beverage Statement comprehensively demonstrates (at 3-4, Tables III and IV, and Figure 4) that if the Commission substitutes Channel 284C3 for Channel 276C3 in MM Docket No. 94-155, as proposed in the "amendment and joint resolution," WSGL can file a one-step application to upgrade to Channel 284C2 at a later date. Moreover, operating on Channel 284C2 would give WSGL an approximately 20% larger potential audience than it presently has (194,977 persons versus 164,025). See Beverage Statement (at 4). Thus, WSGL is simply mistaken that allotting Channel 284C3 to WSGL in MM Docket No. 94-155 will prevent a further upgrade.

10. As to WSGL's implicit claim that, if its untimely counterproposal/application for Channel 276C2 were considered in MM Docket No. 94-155, grant thereof would produce a greater public interest benefit than the five station upgrades contained in the "amendment and joint resolution," the Beverage Statement concludes (at 2-3) that the Channel 276C2 upgrade would produce a net gain of 76,656 persons, with a loss in service to the east, while the alternative "amendment and joint resolution" would yield a net upgrade gain of 1,229,204 persons. Surely the paramount public interest favors the Parties' proposal over WSGL's counterproposal/application.

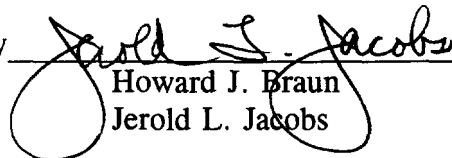
III. Conclusion

11. In sum, the "amendment and joint resolution" in the Public Notice will permit five stations -- WPBZ, WJST, WAFC, WJBW, and WAAD -- to upgrade their facilities, including four upgrades from Class A to wide-area Class C2 or Class C3 service. Commission precedent clearly favors channel allotment resolutions which maximize the number of communities that will have upgraded facilities. See Archilla-Marcocci Spanish Radio Co., 101 FCC 2d 522 (Rev. Bd. 1985), rev. denied, FCC 86-271 (Comm'n May 30, 1986)(§307(b) of the Communications Act is better served by granting proposals to serve three communities instead of one). Moreover, the five upgrades will result in the availability of upgraded radio service to at least an additional 1,229,204 persons in the State of Florida, compared to 76,656 persons under WSGL's proposal. WSGL's counterproposal/application is procedurally and technically defective, and, if granted, it would not provide nearly the same upgrade and increased audience advantages as the "amendment and joint resolution".

WHEREFORE, in view of the foregoing, the Parties respectfully ask the Commission to dismiss or strike WSGL's defective counterproposal/application. At minimum, the counterproposal/application should be held in abeyance until the conclusion of the rulemaking proceeding in MM Docket No. 94-155, with the Commission's allotment determinations in that docket governing the ultimate disposition of WSGL's counterproposal/application.

Respectfully submitted,

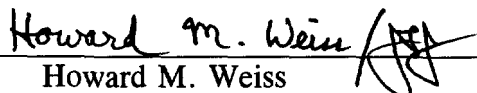
PALMBEACH RADIO BROADCASTING, INC.

By  _____
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Its Attorneys

GULF COMMUNICATIONS PARTNERSHIP

By  _____
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Its Attorneys

Dated: October 7, 1996

**ENGINEERING STATEMENT CONCERNING
STERLING COMMUNICATIONS CORP. WSGL(FM)
ONE STEP UPGRADE APPLICATION
CHANNEL 276C2 50 kW MAX. DA @ 150 m HAAT
NAPLES, FLORIDA
BPH-960613IC AND MM DOCKET NO. 94-155**

OCTOBER 1996

**ENGINEERING STATEMENT CONCERNING
STERLING COMMUNICATIONS CORP. WSGL(FM)
ONE STEP UPGRADE APPLICATION
CHANNEL 276C2 50 kW MAX. DA @ 150 m HAAT
NAPLES, FLORIDA
BPH-960613IC AND MM DOCKET NO. 94-155**

OCTOBER 1996

SUMMARY

The following analysis has been prepared on behalf of **Palm Beach Radio Broadcasting, Inc. ("Palm Beach")** in regard to MM Docket No. 94-155, RM-8486, RM-8802 and RM-8803, Amendment to *Section 73.202(b), Table of Allotments* for Big Pine Key, Key Colony Beach, Naples, Tice, Indiantown, Fort Myers Villas, Clewiston and Jupiter, Florida.

On June 13, 1996, Sterling Communications Corp., licensee of WSGL(FM), Naples, Florida, filed a 301 Application for Construction Permit which requests a one-step upgrade for WSGL from Channel 276C3 to Channel 276C2. This analysis will describe the application in terms of its impact in MM Docket No. 94-155 as well as the public interest aspect of the application. Further, **Palm Beach** will show that an alternative C2 upgrade path is available to Sterling which is compatible with the Joint Resolution supported by **Palm Beach** in MM Docket No. 94-155.

ALLOCATION ANALYSIS

Table I, attached, is an allocation study for Channel 276C2 using the licensed WSGL site which is also the site proposed by WSGL for its Channel 276C2 upgrade. The proposed site is short spaced to two upgrades in MM Docket No. 94-155 and these are tabulated below:

Channel 275C2	Fort Myers Villas, Florida	RM 8310, RM 8468
Channel 276C1	Indiantown, Florida	RM 8310, RM 8468

The WSGL one-step application was filed after the original comment deadline in MM Docket No. 94-155 and, therefore, cannot be processed until the Rulemaking proceeding is completed. However, even if the

application were to be processed, it would be found defective for its failure to comply with the one-step process pursuant to MM Docket No. 92-159, 8 FCC 2d 4736 (released July 13, 1993). The Docket requires:

1. An allotment site map that complies with the requirements of the April 5, 1985, Public Notice, Mimeo 3693, or a statement that the allotment site will be located on an existing tower.
2. A city coverage map, showing the allotment site is in compliance with 47 C.F.R. *Section 73.315*.
3. A showing demonstrating that the allotment site meets the minimum distance separation requirements of 47 C.F.R. *Section 73.207*.
4. A statement that the proposed allotment site is suitable for tower construction.

The WSGL one-step application is totally deficient as it fails to address any of these factors. Moreover, based on affiant's studies, there appears to be no location that meets the Docket No. 92-159 allotment coordinate criteria. Table II is an allocation study for coordinates that meet *Section 73.207* to licensed facilities. The coordinates are as close to land as possible but are, nevertheless, in the Atlantic Ocean, located approximately 5 km from the nearest point of land as shown on Figure 1. There is no land area that would meet *Section 73.207* requirements for a Channel 276C2 allotment.

PUBLIC INTEREST

Even if the upgraded facilities proposed by WSGL were acceptable for filing, they do not represent the most efficient use of the channel. Area and population within the WSGL licensed and proposed 60 dBu contours have been computed based on 1990 U.S. Census data and are as follows:

	<u>Population Persons</u>	<u>Area - Sq. km</u>
WSGL Licensed	164,025	4,819
Proposed 276C2	<u>240,681</u>	<u>7,341</u>
Gain	76,656 persons	2,522 sq. km

The contour locations are shown on Figure 2. It is noted that the proposed WSGL Channel 276C2 60 dBu is associated with a loss in service to the east when compared to the licensed 60 dBu. Moreover, the net gain in population is small compared to the Joint Resolution net upgrade gain of 1,229,204 persons in MM Docket No. 94-155. Therefore, there appears to be no public interest benefit to the proposal and, on a comparative allotment basis, the five allotment upgrades proposed in the Joint Resolution would appear to have priority over WSGL's single upgrade.

Most importantly, while WSGL states in its June 10, 1996 Comments on the Joint Resolution in MM Docket No. 94-155 that substituting Channel 284C3 for WSGL's current Channel 276C3 is non-consensual because "Such a change would prevent any further upgrade of WSGL's facilities", WSGL's upgrade analysis is incorrect as will now be shown.

WSGL's current one-step application is short spaced under *Section 73.207* of the Rules, and it requests processing under *Section 73.215*. Table III is an allocation study for WSGL's site, which demonstrates that the *Section 73.215(e)* minimum distance separations are met for Channel 284C2 at the Channel 276C2 site specified in WSGL's current application. Therefore, it appears that if Channel 284C3 were substituted for Channel 276C3 in this proceeding, WSGL could file a one-step upgrade application for Channel 284C2, from its current site, under *Section 73.215*. In that connection, to satisfy the Commission's one-step filing criteria, Table IV is an allocation study demonstrating that there is a non-short spaced site (allotment coordinates) for Channel 284C2, and Figure 3 demonstrates that the 70 dBu contour of a Channel 284C2 upgrade using the non-short spaced allocation coordinates would serve Naples, Florida. Figure 4 is a possible *Section 73.215* proposed facility using the licensed WSGL site location, while Figure 5 is an overall comparison of, 1) the current WSGL licensed 60 dBu contour; 2) the WSGL proposed Channel 276C2 60 dBu contour at the WSGL licensed site; 3) the WSGL potential Channel 284C2 60 dBu contour at the WSGL licensed site; 4) the Channel 284C2 allotment 60 dBu contour.

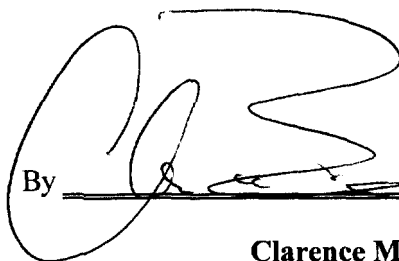
Comparative area and population data for the WSGL Channel 284C2 alternatives are as follows:

<u>Facility</u>	<u>Population Persons</u>	<u>Total Area Sq. kM</u>
WSGL Licensed (CH 276C3)	164,025	4,819
WSGL One-Step (CH 284C2)	194,977	8,163
WSGL Allotment (CH 284C2)	161,020	8,560

CONCLUSION

The one-step upgrade application filed by WSGL is in violation of current Commission Practices and Procedures for one-step upgrade and should be dismissed. However, if the application were acceptable, it is mutually exclusive with two timely filed allotment upgrade proposals in MM Docket No. 94-155. WSGL states that it opposes a change to Channel 284C3 as it cannot upgrade on that channel. Based on the FCC's Rules, policies, and case precedence, and the data submitted herein, it is shown that WSGL can achieve a one-step upgrade on Channel 284C2 but not on Channel 276C2. As shown above, if the Commission substitutes Channel 284C3 for Channel 276C3 in this proceeding, WSGL can file a one-step application to upgrade to Channel 284C2 at a later date.

The foregoing was prepared on behalf of **Palm Beach Radio Broadcasting, Inc.** by Clarence M. Beverage of *Communications Technologies, Inc.*, Marlton, New Jersey, whose qualifications are a matter of record with the Federal Communications Commission. The statements herein are true and correct of his own knowledge, except such statements made on information and belief, and as to these statements he believes them to be true and correct.

By  _____

Clarence M. Beverage
for Communications Technologies, Inc.
Marlton, New Jersey

SUBSCRIBED AND SWORN TO before me,

this 3rd day of October, 1996,

Esther G. Sperbeck, NOTARY PUBLIC

ESTHER G. SPERBECK
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES OCT 15, 1997

TABLE I

SECTION 73.207 ALLOCATION STUDY

WSGL ONE STEP UPGRADE

NAPLES, FLORIDA

OCTOBER, 1996

Search of channel 276C2 (103.1 MHz), at N. 26 7 33, W. 81 43 17.

Searching Channel 276C2 (103.1 MHz), from the site of WSGL:

CALL	CITY	ST	CHN	CL	S	DIST	SEPN	BRNG	CLEARANCE
WROC	Fort Myers Villas	FL	275	C2	A	49.6	130.0	324.2°	-80.4 ¹
WROC	Fort Myers Villas	FL	275	C2	A	49.7	130.0	313.3°	-80.3 ¹
WROCFM	Fort Myers Villas	FL	275	C2	A	49.7	130.0	313.3°	-80.3 ¹
ALC	Naples	FL	276	C3	U	10.7	177.0	181.2°	-166.3
ALC	Indiantown	FL	276	C2	U	180.2	190.0	48.7°	-9.8
ALC	Plantation Key	FL	276	C3	U	172.3	177.0	135.0°	-4.7
WFKZ	Plantation Key	FL	276	C3	L	172.3	177.0	135.0°	-4.7
WFKZ	Plantation Key	FL	276	C3	C	172.3	177.0	135.0°	-4.7
WPBZ	Indiantown	FL	276	C1	A	183.5	224.0	60.6°	-40.5 ²
WPBZ	Indiantown	FL	276	C1	A	183.5	224.0	60.6°	-40.5 ²
WPBZ	Indiantown	FL	276	C2	D	180.2	190.0	48.7°	-9.8
WPBZ	Indiantown	FL	276	C2	L	177.3	190.0	55.6°	-12.7
WPBZ	Indiantown	FL	276	C2	C	183.2	190.0	57.0°	-6.8
WSGL	Naples	FL	276	C3	D	0.0	177.0	0.0°	-177.0
WSGL	Naples	FL	276	C3	L	0.0	177.0	0.0°	-177.0

NOTES:

¹ From Channel 292A, RM 8310, RM 8468

² Proposed upgrade, RM 8310, RM 8468

TABLE II
ALLOCATION STUDY - SECTION 73.207
REFERENCE COORDINATES - CHANNEL 276C2
NEAR NAPLES, FL

OCTOBER, 1996

Search of channel 276C2 (103.1 MHz), at N. 26 4 28, W. 81 50 14.

CALL	CITY	ST	CHN	CL	S	DIST	SEPN	BRNG	CLEARANCE
WROC	Fort Myers Villas	FL	275	C2	A	49.1	130.0	339.2°	-80.9 ¹
ALC	Naples	FL	276	C3	U	12.4	177.0	113.8°	-164.6
ALC	Indiantown	FL	276	C2	U	192.7	190.0	49.7°	2.7
ALC	Plantation Key	FL	276	C3	U	176.9	177.0	131.0°	-0.0
WFKZ	Plantation Key	FL	276	C3	L	176.9	177.0	131.0°	-0.0
WFKZ	Plantation Key	FL	276	C3	C	176.9	177.0	131.0°	-0.0
WPBZ	Indiantown	FL	276	C1	A	196.3	224.0	60.8°	-27.7
WPBZ	Indiantown	FL	276	C2	L	190.1	190.0	56.1°	0.0
WPBZ	Indiantown	FL	276	C2	C	196.0	190.0	57.5°	6.0
WSGL	Naples	FL	276	C3	L	12.9	177.0	63.8°	-164.1
WSGL	Naples	FL	276	C2	A	12.9	190.0	63.8°	-177.1

NOTE:

¹ From 292A, RM 8310, RM 8468.

TABLE III

**SECTION 73.207/73.215(e) ALLOCATION STUDY
POSSIBLE WSGL ONE STEP
UPGRADE FROM CHANNEL 284C3
NAPLES, FLORIDA**

OCTOBER, 1996

Search of channel 284C2 (104.7 MHz), at N. 26 7 33, W. 81 43 17.

Searching Channel 284C2 (104.7 MHz):

CALL	CITY	ST	CHN	CL	S	DIST	SEPN	BRNG	CLEARANCE
=====	=====	=====	=====	=====	=====	=====	=====	=====	=====
WWUS	Big Pine Key	FL	283	C	A	165.1	188.0	169.4°	-22.9 ¹
ALC	Tampa	FL	284	C1	U	214.6	224.0	340.0°	-9.4 ²
ALC	White City	FL	284	C3	U	198.2	177.0	43.0°	21.2
ALC	Big Pine Key	FL	284	C	U	165.1	249.0	169.4°	-83.9 ¹
WFLM	White City	FL	284	C3	L	198.2	177.0	43.0°	21.2
WNOG	Naples	FL	284	A	A	0.4	166.0	200.6°	-165.6 ³
WRBQFM	Tampa	FL	284	C1	L	214.6	224.0	340.0°	-9.4 ²
WSGL	Naples	FL	284	C3	A	0.0	177.0	0.0°	-177.0
WWUS	Big Pine Key	FL	284	C	D	165.1	249.0	169.4°	-83.9 ¹
WWUS	Big Pine Key	FL	284	C1	L	165.1	224.0	169.4°	-58.9 ¹
WWUS	Big Pine Key	FL	284	C	A	165.1	249.0	169.4°	-83.9 ¹
ALC	Solana	FL	285	A	U	85.6	106.0	338.4°	-20.4 ¹
W285AS	Marco Island	FL	285	D	L	21.0	0.0	183.3°	21.0
WCVU	Solana	FL	285	A	L	91.2	106.0	338.9°	-14.8 ⁴

NOTES:

- ¹ To Channel 281C1, RM 8803
- ² 73.215(e) minimum allowable 211 kM
- ³ To Channel 292A, RM 8468
- ⁴ 73.215(e) minimum allowable 89 kM

TABLE IV

SECTION 73.207 ALLOCATION STUDY

POSSIBLE CHANNEL 284C2 REFERENCE COORDINATES

NAPLES, FLORIDA

OCTOBER, 1996

Search of channel 284C2 (104.7 MHz), at N. 25 59 56, W. 81 40 42.

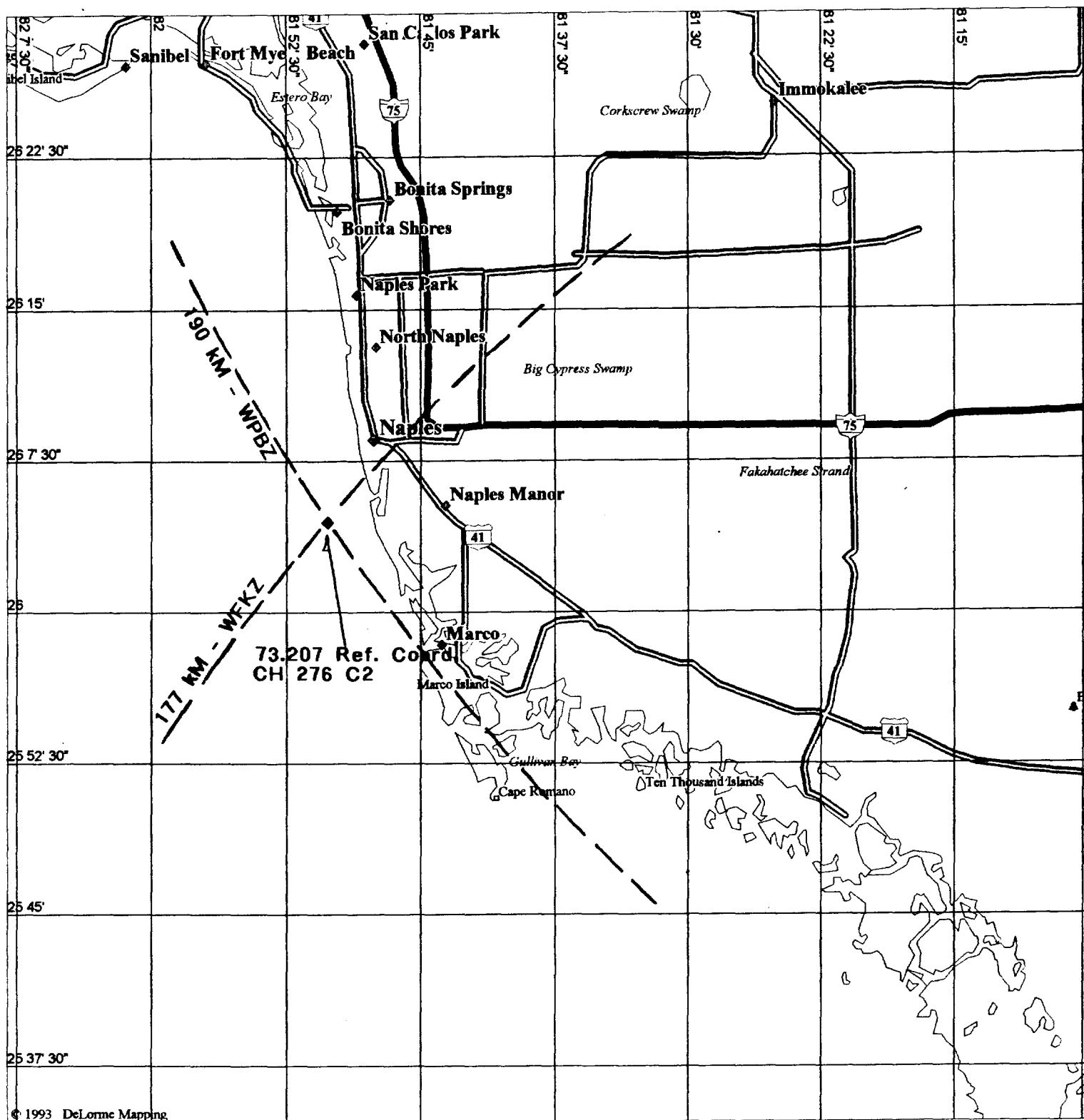
Searching Channel 284C2 (104.7 MHz):

CALL	CITY	ST	CHN	CL	S	DIST	SEPN	BRNG	CLEARANCE
WWUS	Big Pine Key	FL	283	C	A	150.5	188.0	170.0°	-37.5 ¹
ALC	Tampa	FL	284	C1	U	229.3	224.0	340.2°	5.3
ALC	White City	FL	284	C3	U	206.0	177.0	39.5°	29.0
ALC	Big Pine Key	FL	284	C	U	150.5	249.0	170.0°	-98.5 ¹
WFLM	White City	FL	284	C3	L	206.0	177.0	39.5°	29.0
WNOG	Naples	FL	284	A	A	14.4	166.0	342.0°	-151.6 ²
WRBQFM	Tampa	FL	284	C1	L	229.3	224.0	340.2°	5.3
WSGL	Naples	FL	284	C3	A	14.7	177.0	343.0°	-162.3
WWUS	Big Pine Key	FL	284	C	D	150.5	249.0	170.0°	-98.5 ¹
WWUS	Big Pine Key	FL	284	C1	L	150.5	224.0	170.0°	-73.5 ¹
WWUS	Big Pine Key	FL	284	C	A	150.5	249.0	170.0°	-98.5 ¹
W285AS	Marco Island	FL	285	D	L	8.8	0.0	218.5°	8.8
WCVU	Solana	FL	285	A	L	105.8	106.0	339.5°	-0.2

NOTES:

¹ To Channel 281C1, RM 8803

² To Channel 292A, RM 8468



LEGEND

- | | |
|------------------------|----------------------|
| □ Geo Feature | Population Center |
| ◆ Town, Small City | — Major Street/Road |
| ◆ Large City | — Interstate Highway |
| ▲ Park | — State Route |
| — Interstate, Turnpike | — US Highway |
| — US Highway | □ Land Mass |

Scale 1:500,000 (at center)

10 Miles

10 KM

Mag 10.00

Mon Sep 30 12:14:58 1996

Figure 1

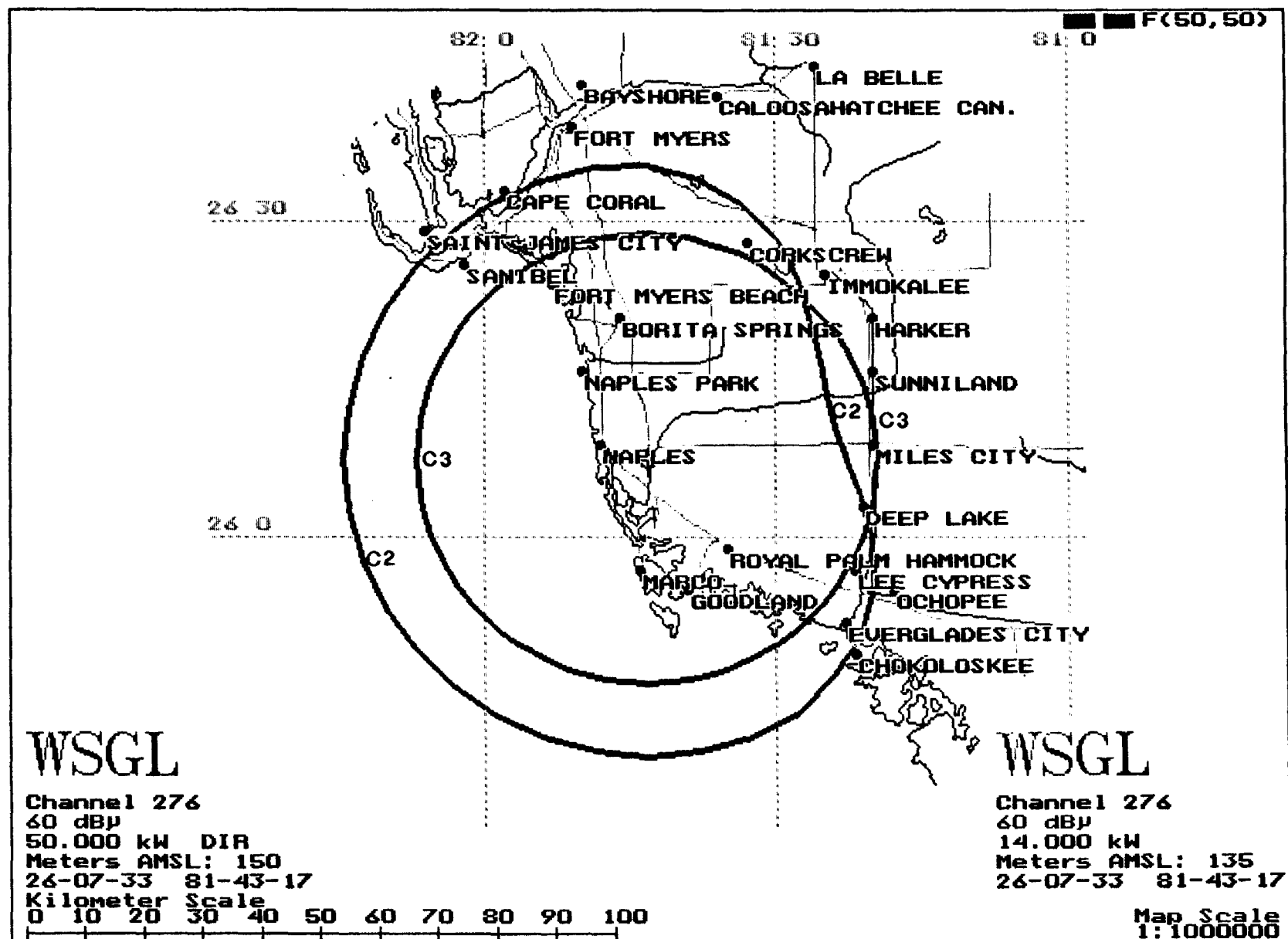


Figure 2

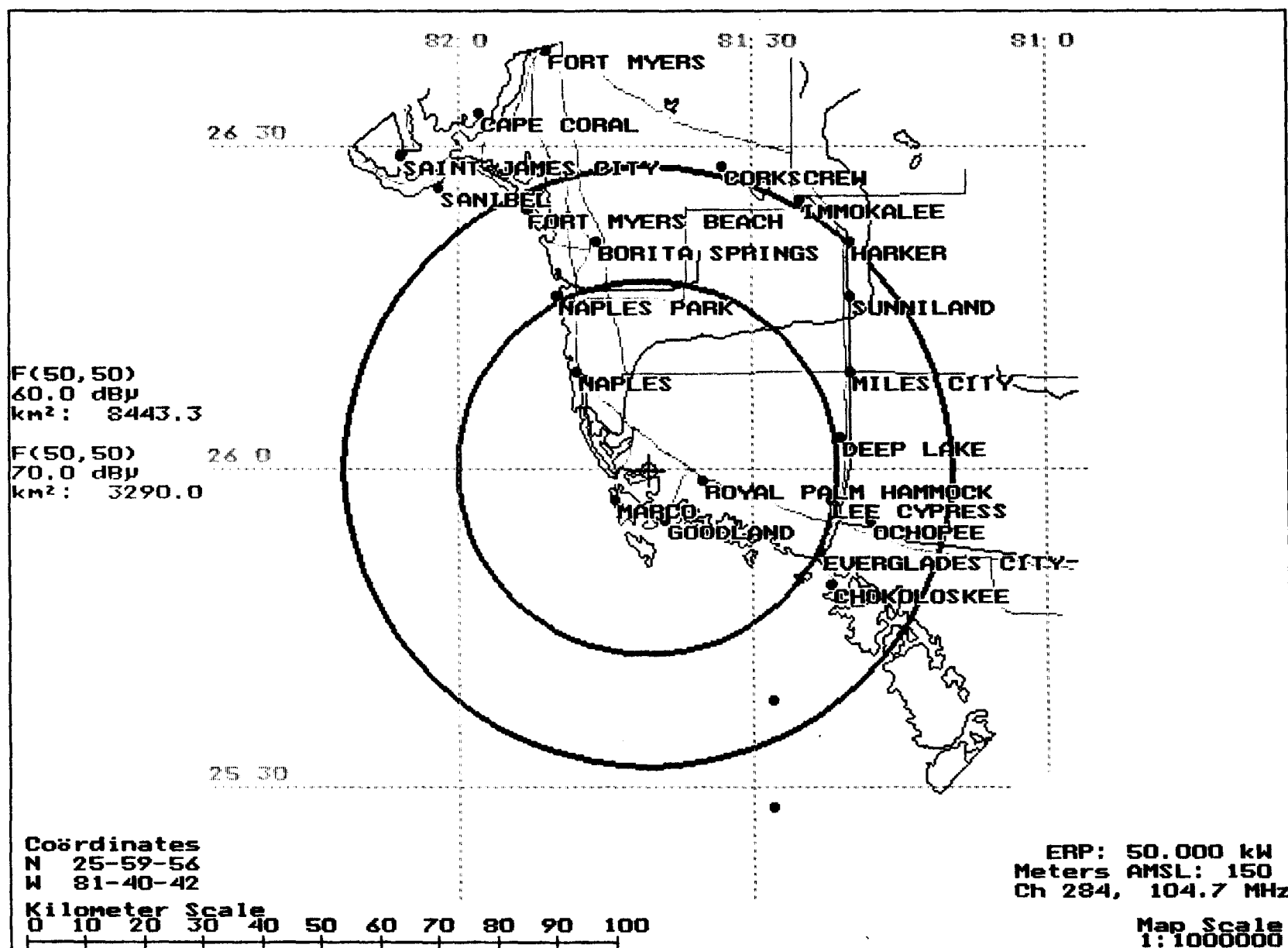


Figure 3

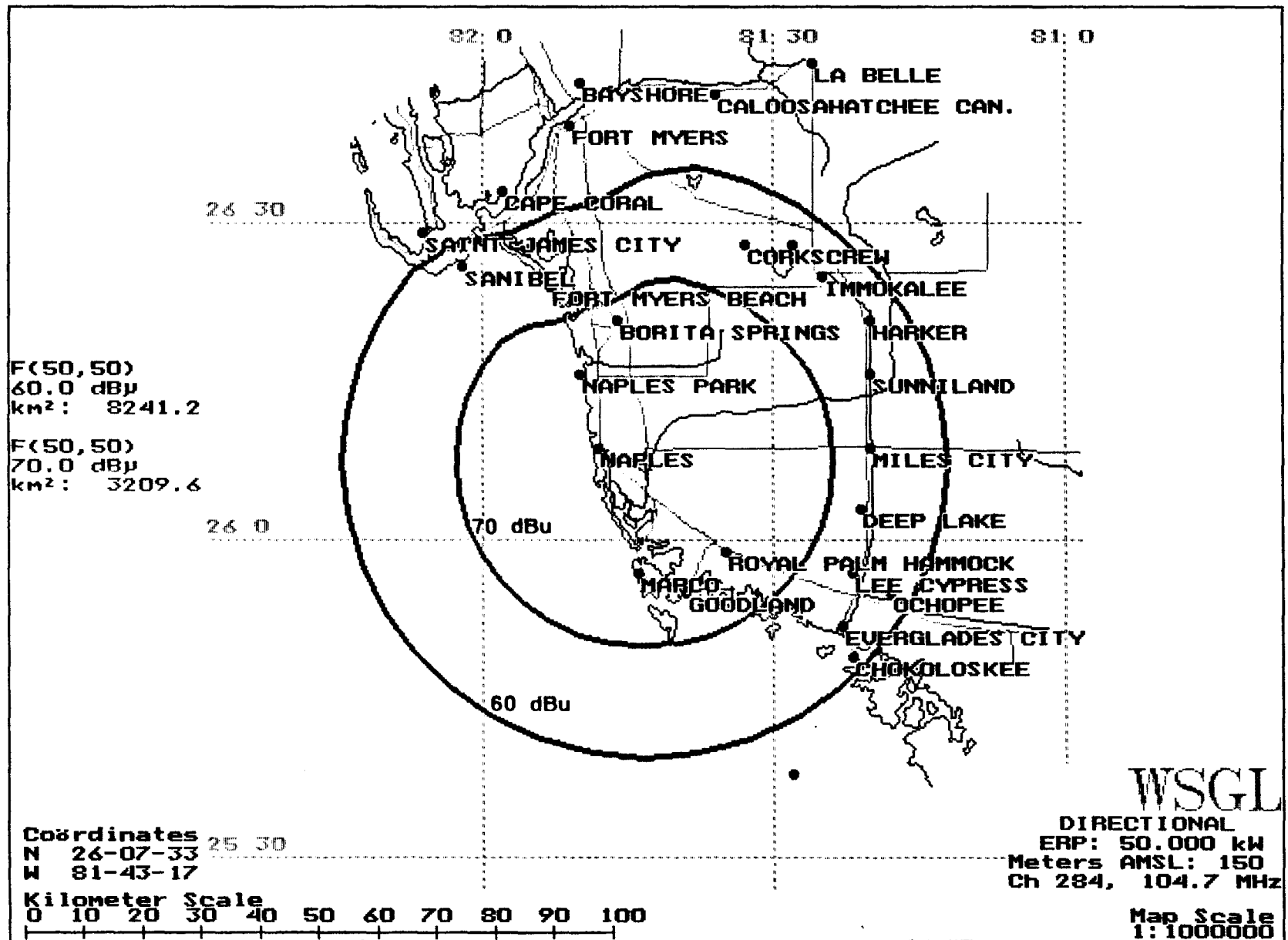
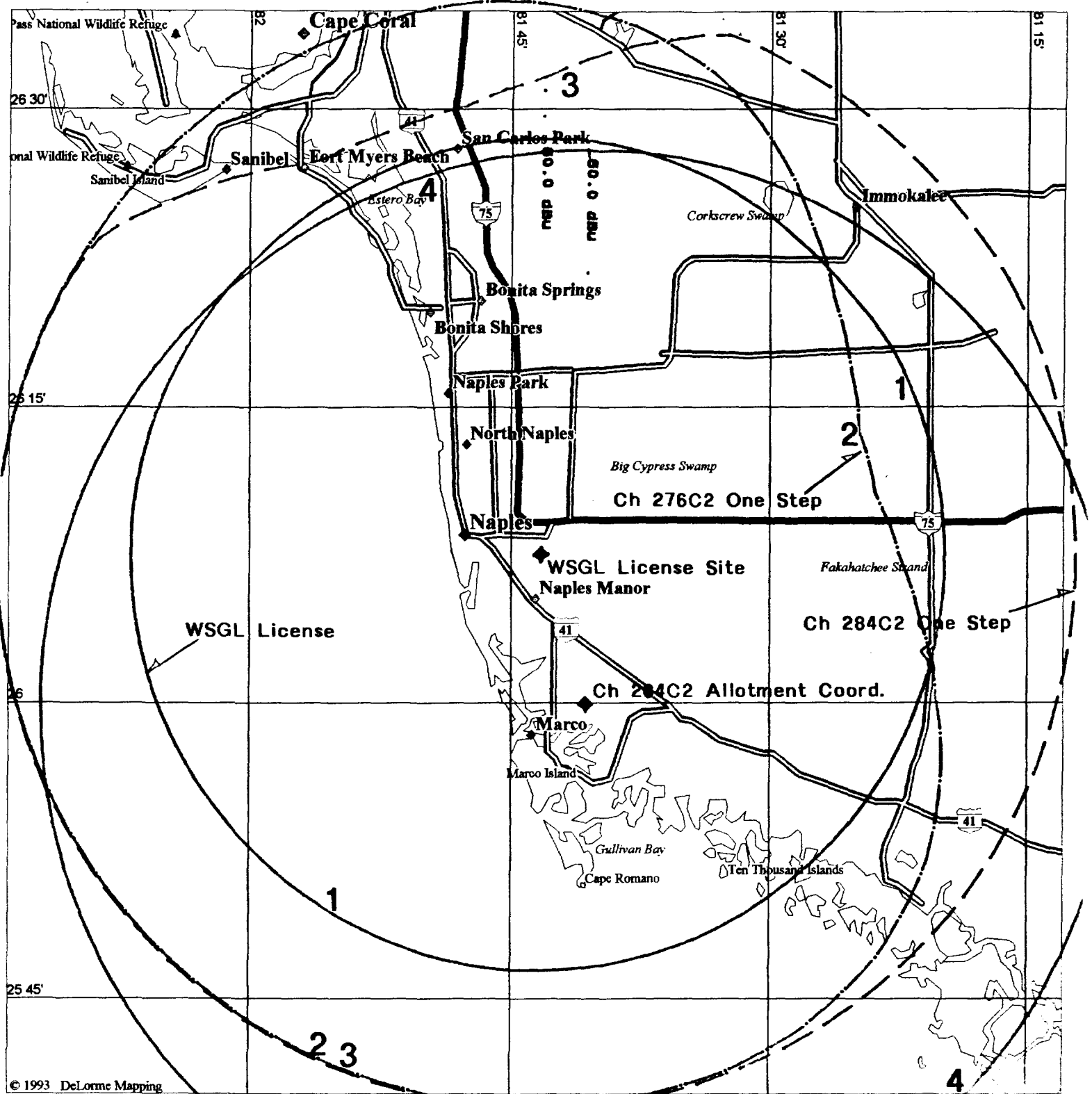


Figure 4



© 1993 DeLorme Mapping

LEGEND

- | | |
|------------------------|----------------------|
| □ Geo Feature | Population Center |
| ◆ Town, Small City | — Major Street/Road |
| ◆ Large City | — Interstate Highway |
| ▲ Park | — State Route |
| — Interstate, Turnpike | — US Highway |
| — US Highway | □ Land Mass |

Scale 1:500,000 (at center)

10 Miles

10 KM

Ch 284C2 ND 50 kW

FIGURE 5

PREDICTED 60 dBu SERVICE CONTOURS

WSGL NAPLES, FLORIDA
SEE ENGINEERING STATEMENT FOR
CONTOUR DESCRIPTIONS

Communications Technologies, Inc.
Marlton, New Jersey
October 1996

CERTIFICATE OF SERVICE

I, Yvonne Corbett, a secretary in the law offices of Rosenman & Colin LLP, do hereby certify that on this 7th day of October, 1996, I have caused to be mailed, or hand-delivered, a copy of the foregoing **"MOTION TO DISMISS OR STRIKE STERLING COMMUNICATIONS CORP.'S DEFECTIVE COUNTERPROPOSAL/APPLICATION"** to the following:

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